

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY (Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

REC'D 18 JAN 2005

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Applicant's or agent's file reference 100954-1 WO	FOR FURTHER ACTION <small>See Form PCT/PEA/416</small>	
International application No. PCT/GB2004/000116	International filing date (day/month/year) 13.01.2004	Priority date (day/month/year) 16.01.2003
International Patent Classification (IPC) or national classification and IPC C07D211/70		
<p>Applicant ASTRAZENECA AB et al.</p> <p>1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of 6 sheets, including this cover sheet.</p> <p>3. This report is also accompanied by ANNEXES, comprising:</p> <p>a. <input type="checkbox"/> <i>(sent to the applicant and to the International Bureau)</i> a total of sheets, as follows:</p> <ul style="list-style-type: none"> <input type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis of this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions). <input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box. <p>b. <input type="checkbox"/> <i>(sent to the International Bureau only)</i> a total of (indicate type and number of electronic carrier(s)), containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).</p>		
<p>4. This report contains indications relating to the following items:</p> <ul style="list-style-type: none"> <input checked="" type="checkbox"/> Box No. I Basis of the opinion <input type="checkbox"/> Box No. II Priority <input checked="" type="checkbox"/> Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability <input type="checkbox"/> Box No. IV Lack of unity of invention <input checked="" type="checkbox"/> Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement <input type="checkbox"/> Box No. VI Certain documents cited <input type="checkbox"/> Box No. VII Certain defects in the international application <input type="checkbox"/> Box No. VIII Certain observations on the international application 		
Date of submission of the demand 23.07.2004	Date of completion of this report 17.01.2005	
Name and mailing address of the International preliminary examining authority:  European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465	Authorized Officer vanVoorsttotVoorst,M Telephone No. +49 89 2399-8280	



INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.
PCT/GB2004/000116

Box No. I Basis of the report

1. With regard to the **language**, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
 - This report is based on translations from the original language into the following language, which is the language of a translation furnished for the purposes of:
 - international search (under Rules 12.3 and 23.1(b))
 - publication of the international application (under Rule 12.4)
 - international preliminary examination (under Rules 55.2 and/or 55.3)
2. With regard to the **elements*** of the international application, this report is based on (*replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report*):

Description, Pages

1-45 as originally filed

Claims, Numbers

1-13 as originally filed

- a sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing

3. The amendments have resulted in the cancellation of:
 - the description, pages
 - the claims, Nos.
 - the drawings, sheets/figs
 - the sequence listing (*specify*):
 - any table(s) related to sequence listing (*specify*):
4. This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
 - the description, pages
 - the claims, Nos.
 - the drawings, sheets/figs
 - the sequence listing (*specify*):
 - any table(s) related to sequence listing (*specify*):

* If item 4 applies, some or all of these sheets may be marked "superseded."

**INTERNATIONAL PRELIMINARY REPORT
ON PATENTABILITY**

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Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability

1. The questions whether the claimed invention appears to be novel, to involve an inventive step (to be non-obvious), or to be industrially applicable have not been examined in respect of:
 - the entire international application,
 - claims Nos. 9,10
 - because:
 - the said international application, or the said claims Nos. 9,10 relate to the following subject matter which does not require an international preliminary examination (specify):
see separate sheet
 - the description, claims or drawings (*indicate particular elements below*) or said claims Nos. are so unclear that no meaningful opinion could be formed (*specify*):
 - the claims, or said claims Nos. are so inadequately supported by the description that no meaningful opinion could be formed.
 - no international search report has been established for the said claims Nos.
 - the nucleotide and/or amino acid sequence listing does not comply with the standard provided for in Annex C of the Administrative Instructions in that:

the written form	<input type="checkbox"/> has not been furnished
	<input type="checkbox"/> does not comply with the standard
the computer readable form	<input type="checkbox"/> has not been furnished
	<input type="checkbox"/> does not comply with the standard

the tables related to the nucleotide and/or amino acid sequence listing, if in computer readable form only, do not comply with the technical requirements provided for in Annex C-*bis* of the Administrative Instructions.

See separate sheet for further details

**INTERNATIONAL PRELIMINARY REPORT
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International application No.
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Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	1-13
	No: Claims	
Inventive step (IS)	Yes: Claims	
	No: Claims	1-13
Industrial applicability (IA)	Yes: Claims	1-8,11-13
	No: Claims	

2. Citations and explanations (Rule 70.7):

see separate sheet

**INTERNATIONAL PRELIMINARY
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(SEPARATE SHEET)**

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AD SECTION III:

1. For the assessment of the present claims 9 and 10 on the question whether they are industrially applicable, no unified criteria exist in the PCT Contracting States. The patentability can also be dependent upon the formulation of the claims. The EPO, for example, does not recognize as industrially applicable the subject-matter of claims to the use of a compound in medical treatment, but may allow, however, claims to a known compound for first use in medical treatment and the use of such a compound for the manufacture of a medicament for a new medical treatment. Claims 9 and 10 relate to subject-matter considered by this Authority to be covered by the provisions of Rule 67.1(iv) PCT. Consequently, no opinion will be formulated with respect to the industrial applicability of the subject-matter of these claims (Article 34(4)(a)(I) PCT).

AD SECTION V:

1. The following documents are considered:
D1: US-B1-6 187 792 (WEI ZHONGYONG ET AL) 13 February 2001 (2001-02-13) cited in the application
D2: WO 02/094812 A (ASTRAZENECA AB, SWED.) 28 November 2002 (2002-11-28)
D3: WO 02/094786 A (ASTRAZENECA AB, SWED.) 28 November 2002 (2002-11-28)
D4: ZHANG X ET AL: 'PROBES FOR NARCOTIC RECEPTOR MEDIATED PHENOMENA. 26.1-3 SYNTHESIS AND BIOLOGICAL EVALUATION OF DIARYLMETHYLPIPERAZINES AND DIARYLMETHYLPIRIDINES AS NOVEL, NONPEPTIDIC DELTA OPIOID RECEPTOR LIGANDS' JOURNAL OF MEDICINAL CHEMISTRY, AMERICAN CHEMICAL SOCIETY. WASHINGTON, US, vol. 42, no. 26, 1999, pages 5455-5463, XP002943072 ISSN: 0022-2623
2. Having regard to the prior art cited in the International Search Report, the subject-matter claimed appears to be novel, mainly on account of the presence of the $N(R^5)C(O)OR^4$ group.
Therefore the subject-matter according to claims 1-13 appears to meet the requirements of Article 33(2) PCT.

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3. Closest prior art comprises the compounds disclosed in D1 to D4 which possess similar pharmacological activities, i.e. they are selective opioid delta ligands. The problem to be solved was to provide improved delta agonist compounds, cf page 1, lines 22-28 of the description. The Applicant has shown the specific binding for some of the compounds claimed on page 23 of the description. However, having regard to the structurally closely related compounds disclosed in the cited prior art it is considered that the skilled person would have expected the qualitative activity from the present compounds. Whether or not the structural modifications of the state of the art are associated with an improvement at all is a fundamental aspect of inventive step. Unless evidence refutes the assumption that the small modifications made are not unexpectedly associated with a significant improvement in the property relevant to the solution of the stated problem, the presumption prevails that the compounds represent only predictable effects and are therefore obvious. The solution of the problem of merely providing further delta receptor agonists does not involve an inventive step. Accordingly, the subject-matter of claims 1-13 does not meet the requirements of Article 33(3) PCT.

4. No objections with regard to Article 33(4) PCT arise for claims 1-8 and 11-13, however, see Section III above.